

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

J.K.J.,

Plaintiff,

v.

POLK COUNTY SHERIFF'S DEPARTMENT,
DARRYL L. CHRISTENSEN,

Defendants.

Case No. 15-CV-428

ANSWER TO AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES

Defendant, Darryl L. Christensen, by Martin J. De Vries of Sager & Colwin Law Offices, S.C., answers plaintiff's amended complaint as follows:

1. Answering paragraph 1, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.
2. Answering paragraph 2, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.
3. Answering paragraph 3, is without knowledge or information sufficient to form a belief as to the truth of the allegations.
4. Answering paragraph 4, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.
5. Answering paragraph 5, admits.
6. Answering paragraph 6, admits.

7. Answering paragraph 7, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

8. Answering paragraph 8, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

9. Answering paragraph 9, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

10. Answering paragraph 10, this paragraph is a legal conclusion with no factual material. Thus, defendant cannot respond. Defendant denies all liability.

11. Answering paragraph 11, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

12. Answering paragraph 12, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

13. Answering paragraph 13, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

14. Answering paragraph 14, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

15. Answering paragraph 15, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

16. Answering paragraph 16, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

17. Answering paragraph 17, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

18. Answering paragraph 18, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

19. Answering paragraph 19, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

20. Answering paragraph 20, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

21. Answering paragraph 21, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

22. Answering paragraph 22, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

23. Answering paragraph 23, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

24. Answering paragraph 24, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

25. Answering paragraph 25, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

26. Answering paragraph 26, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

27. Answering paragraph 27, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

28. Answering paragraph 28, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

29. Answering paragraph 29, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

30. Answering paragraph 30, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

31. Answering paragraph 31, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

32. Answering paragraph 32, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

33. Answering paragraph 33, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

34. Answering paragraph 34, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

35. Answering paragraph 35, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

36. Answering paragraph 36, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

37. Answering paragraph 37, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

38. Answering paragraph 38, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

39. Answering paragraph 39, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

40. Answering paragraph 40, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

41. Answering paragraph 41, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

42. Answering paragraph 42, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

43. Answering paragraph 43, denies.

44. Answering paragraph 44, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

45. Answering paragraph 45, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

46. Answering paragraph 46, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

47. Answering paragraph 47, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

48. Answering paragraph 48, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

49. Answering paragraph 49, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

50. Answering paragraph 50, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

51. Answering paragraph 51, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

52. Answering paragraph 52, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

53. Answering paragraph 53, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

54. Answering paragraph 54, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

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56. Answering paragraph 56, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

57. Answering paragraph 57, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

58. Answering paragraph 58, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

59. Answering paragraph 59, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

60. Answering paragraph 60, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

61. Answering paragraph 61, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

62. Answering paragraph 62, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

63. Answering paragraph 63, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

64. Answering paragraph 64, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

65. Answering paragraph 65, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

66. Answering paragraph 66, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

67. Answering paragraph 67, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

68. Answering paragraph 68, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

69. Answering paragraph 69, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

70. Answering paragraph 70, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

71. Answering paragraph 71, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

72. Answering paragraph 72, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

73. Answering paragraph 73, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

74. Answering paragraph 74, denies.

75. Answering paragraph 75, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

76. Answering paragraph 76, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

77. Answering paragraph 77, incorporates herein answers to paragraph 1 through 76 of the complaint.

78. Answering paragraph 78, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

79. Answering paragraph 79, denies.

80. Answering paragraph 80, denies.

81. Answering paragraph 81, denies.

82. Answering paragraph 82, denies.

83. Answering paragraph 83, denies.

84. Answering paragraph 84, denies.

85. Answering paragraph 85, incorporates herein answers to paragraph 1 through 84 of the complaint.

86. Answering paragraph 86, denies.

87. Answering paragraph 87, denies.

88. Answering paragraph 88, denies.

89. Answering paragraph 89, denies.

90. Answering paragraph 90, denies.

91. Answering paragraph 91, incorporates herein answers to paragraph 1 through 90 of the complaint.

92. Answering paragraph 92, denies.

93. Answering paragraph 93, denies.

94. Answering paragraph 94, denies.

95. Answering paragraph 95, denies.

96. Answering paragraph 96, denies.

97. Answering paragraph 97, denies.

98. Answering paragraph 98, denies.

99. Answering paragraph 99, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

100. Answering paragraph 100, denies.

101. Answering paragraph 101, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

102. Answering paragraph 102, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

103. Answering paragraph 103, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

104. Answering paragraph 104, denies.

105. Answering paragraph 105, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

106. Answering paragraph 106, denies.

107. Answering paragraph 107, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

108. Answering paragraph 108, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

109. Answering paragraph 109, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

110. Answering paragraph 110, denies.

111. Answering paragraph 111, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

112. Answering paragraph 112, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

113. Answering paragraph 113, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

114. Answering paragraph 114, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

115. Answering paragraph 115, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

116. Answering paragraph 116, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

117. Answering paragraph 117, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

118. Answering paragraph 118, denies.

119. Answering paragraph 119, incorporates herein answers to paragraph 1 through 118 of the complaint.

120. Answering paragraph 120, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

121. Answering paragraph 121, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

122. Answering paragraph 122, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

123. Answering paragraph 123, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

124. Answering paragraph 124, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

125. Answering paragraph 125, denies.

126. Answering paragraph 126, incorporates herein answers to paragraph 1 through 125 of the complaint.

127. Answering paragraph 127, denies.

128. Answering paragraph 128, denies.

129. Answering paragraph 129, denies.

130. Answering paragraph 130, denies.

131. Answering paragraph 131, denies.

132. Answering paragraph 132, incorporates herein answers to paragraph 1 through 131 of the complaint.

133. Answering paragraph 133, denies.

134. Answering paragraph 134, denies.

135. Answering paragraph 135, denies.

136. Answering paragraph 136, incorporates herein answers to paragraph 1 through 135 of the complaint.

137. Answering paragraph 137, denies.

138. Answering paragraph 138, denies.

139. Answering paragraph 139, denies.

140. Answering paragraph 140, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

141. Answering paragraph 141, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

142. Answering paragraph 142, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

143. Answering paragraph 143, incorporates herein answers to paragraph 1 through 142 of the complaint.

144. Answering paragraph 144, denies.

145. Answering paragraph 145, denies.

146. Answering paragraph 146, denies.

147. Answering paragraph 147, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

148. Answering paragraph 148, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

149. Answering paragraph 149, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

150. Answering paragraph 150, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

151. Answering paragraph 151, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

152. Answering paragraph 152, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

153. Answering paragraph 153, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

154. Answering paragraph 154, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

155. Answering paragraph 155, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

156. Answering paragraph 156, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

157. Answering paragraph 157, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

158. Answering paragraph 158, is without knowledge or information sufficient to form a belief as to the truth of the allegations.

159. Answering paragraph 159, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

160. Answering paragraph 160, incorporates herein answers to paragraph 1 through 159 of the complaint.

161. Answering paragraph 161, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

162. Answering paragraph 162, is without knowledge or information sufficient to form a belief as to the truth of the allegations. In addition, the Fifth Amendment protects defendant from the necessity of responding.

AFFIRMATIVE DEFENSES

As and for affirmative defenses to plaintiff's amended complaint, defendant Darryl L. Christensen submits the following:

1. Defendant is entitled to immunity from liability and suit pursuant to the doctrine of qualified immunity.
2. Plaintiff's claims are barred by *Parratt v. Taylor*, 451 U.S. 521 (1981).
3. Plaintiff has not alleged facts sufficient to support punitive damages.
4. Plaintiff may have failed to mitigate damages.
5. Plaintiff's amended complaint fails to state a claim upon which relief can be granted.
6. Some or all of plaintiff's claims may be barred by the statute of limitations.
7. Plaintiff failed to exhaust administrative remedies.
8. Plaintiff's claims are barred or limited by the provisions of 42 U.S.C. § 1997e(e) injury requirement.

9. Plaintiff's state law claims are barred by failure to comply with notice of claim provisions of Wis. Stats. §893.80 and subject to caps set forth therein.

10. The actions of defendant Darryl L. Christensen alleged in the Amended Complaint were not actions under color of state law.

JURY DEMAND

Defendant demands a jury trial in this case.

Dated at Fond du Lac, Wisconsin, this 7th day of January, 2016.

SAGER & COLWIN LAW OFFICES, S.C.
Attorneys for Defendant,
Darryl L. Christensen

/s/ Martin J. De Vries

Martin J. De Vries
State Bar No. 1032279

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